

EXHIBIT

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CONFIDENTIAL - DAVID STOLLOW, CPA
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: :
: Master File No.
Global Brokerage, Inc. : 1:17-cv-00916-RA
F/k/a FXCM, Inc. :
Securities Litigation :
----- :

REMOTE VIDEO DEPOSITION VIA ZOOM OF:
DAVID STOLLOW, CPA
MONDAY, JANUARY 25, 2021

REPORTED BY:
SILVIA P. WAGE, CCR, CRR, RPR
JOB NO. 4398807

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2 were aware in which E&Y, specifically, evaluated
3 or looked into whether Effex, specifically,
4 should be disclosed in FXCM's financial
5 statements as a related party?

6 A. Uh-huh. So this gets into a broader
7 conversation. When we start in 2015 and 2016 as
8 the NFA and CFTC allegations are being brought
9 forth more publically, the discussion and
10 analysis in the 2016 work papers, which you
11 started to refer to before, became more
12 prominent. We did assess the allegations in
13 relation to our financial statements that were
14 publically available still in 2014, in 2015, in
15 2016 based on those allegations and for a host of
16 reasons believed that they were fairly presented
17 and accurate from an audit financial statement
18 opinion.

19 Q. So, prior to the NFA and CFTC
20 investigations --

21 A. Uh-huh.

22 Q. -- was there any year in which E&Y,
23 specifically, inquired as to whether Effex should
24 be disclosed as a related party in FXCM's
25 financial statements?

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2 A. If we inquired, I do not recall.

3 Q. Do you recall whether E&Y had any
4 discussions with FXCM management in that period
5 prior to the CFTC and NFA investigations about
6 Effex, specifically, with FXCM's management?

7 A. There was no recollection of
8 discussions about Effex in relation to -- as you
9 just said, prior to the NFA and CFTC items being
10 referenced in 2015 and 2016.

11 Q. In the course of auditing FXCM's
12 annual and periodic financial statements in the
13 period between Fiscal Year 2010 and Fiscal
14 Year 2016, did E&Y consider or determine whether
15 FXCM should be reporting Effex as presenting a
16 potential conflict of interest?

17 MR. TABAK: Objection to form.

18 MS. COREY: Objection to form.

19 Joined.

20 A. That's a very broad question, but
21 let's -- as it relates to the financial
22 statements that we were opining on as it relates
23 to the financial statements in the public domain
24 for 2014, 2015 and 2016, we did assess that and
25 for a host of reasons did not -- we concurred. I

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2 MR. LaPOINTE: Sorry. That's -- both
3 I and other Counsel in this have had that issue.
4 There's similarity between FXCM and Effex. So
5 I'll strike the question and attempt to rephrase.

6 Q. In the course of auditing FXCM's
7 annual and periodic financial statements in
8 Fiscal Years 2010 through 2013, did E&Y consider
9 or determine whether FXCM should be reporting its
10 relationship with Effex as a potential VIE?

11 MR. TABAK: Objection to form.

12 MS. COREY: Joined.

13 A. Based on our recollection, there was
14 no recollection of discussion of Effex as it
15 relates to related party considerations.

16 Q. Did E&Y at anytime discuss with FXCM
17 management whether Effex should be disclosed or
18 reported as a VIE?

19 A. Not to our knowledge during 20 --
20 you're referring to 2010 to 2013, correct?

21 Q. This one is during anytime. So I'm
22 asking about really if there were such
23 discussions in the 2014 through 2016 period.

24 A. In the 2014 through 2016 period, we
25 did have discussions, obviously, looking at the

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2 overall evaluation.

3 Q. Thank you.

4 So I direct your attention down to
5 the last paragraph on the first page beginning,
6 "In 2009, FXCM management hired an algorithmic
7 trader named John Dittami" --

8 A. Yes.

9 Q. -- ('Dittami') for the purpose of
10 developing an algorithm to address the need for
11 liquidity in the market for retail customers."

12 Do you see that?

13 A. I do.

14 Q. When did E&Y first learn of this
15 arrangement described here between John Dittami
16 and FXCM?

17 A. When did we first learn it? I cannot
18 tell you, specifically, but it's generally over
19 the course of the CFTC and NFA communications,
20 which is primarily the 2015, 2016 time frames.

21 Q. So would it be fair to say that in
22 2010 through 2013 E&Y had not, specifically,
23 discussed Mr. Dittami with anybody from FXCM?

24 A. So we were -- and this is from
25 recollection and discussions with the previous

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2 audit partners as well -- aware of Effex as a
3 liquidity provider from a transactional
4 perspective. So I can comment as to that.

5 As to the specifics of what you're
6 asking for here, no. But I just want to make
7 sure the context of the response is appropriate.

8 Q. And I appreciate the clarification
9 again.

10 Just to be very clear --

11 A. Uh-huh.

12 Q. -- is the testimony that E&Y was
13 aware that there was a liquidity provider called
14 Effex during that 2010 to 2013 period?

15 A. Yes.

16 Q. Was E&Y aware of Effex's relationship
17 with John Dittami or in connection with John
18 Dittami in that period between 2010 and 2013?

19 MR. TABAK: Objection to form.

20 MS. COREY: Joined.

21 MR. TABAK: I just want to make sure
22 -- can the Court Reporter can read back the
23 question there. I just want to make sure, Brent,
24 it's the one that you intended to ask. It may
25 be. I just want to make sure.

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2 the view that operating this algorithm within
3 Forex would be inconsistent with the no dealing
4 desk arrangement that FXCM used to market itself
5 to customers but operating the model as an
6 independent liquidity provider would not."

7 Do you see that?

8 A. Yes.

9 Q. And it continues, "Thus the company
10 determined that Dittami would operate under a
11 services agreement whereby Forex would be
12 compensated based on the volume of transactions
13 sent to Dittami (an arrangement referred to as
14 "pay for flow')." "

15 Do you see that?

16 A. I do.

17 Q. Did FXCM disclose to E&Y this
18 arrangement described in this paragraph in Fiscal
19 Years 2010 through 2013?

20 MR. TABAK: Object to form.

21 A. Our recollection is that payment for
22 order flow was mentioned in the services
23 agreement itself in terms of the payment for
24 order flow. The references to the earlier part
25 of the entire relationship we were not, to our

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2 knowledge, aware prior to --

3 Q. Go ahead.

4 A. -- NFA and CFTC allegations.

5 Q. Thank you.

6 And then it continues a little bit.

7 A little further down there is a sentence that
8 begins, "in exchange," about the middle of the
9 first paragraph on the second page.

10 Do you see that?

11 A. No -- oh, yes, "in exchange for the"
12 --

13 Q. "In exchange for the pay for flow
14 compensation that Forex would be receiving from
15 Effex, Forex agreed to make available to Effex
16 certain bid/ask and other market quote
17 information for transactions prior to execution."

18 Do you see that?

19 A. Yes, I do.

20 Q. And then it continues, "Under the
21 Forex/Effex arrangement, to the extent Effex can
22 provide more favorable pricing or match the
23 quotes available for a particular transaction,
24 the transaction would be awarded to them as the
25 liquidity provider."

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C E R T I F I C A T E O F R E P O R T E R

I, SILVIA P. WAGE, a Certified Shorthand Reporter, Certified Realtime Reporter and Registered Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision; that before completion of the deposition, review of the transcript [X] was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.


<%9932,Signature%>

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